

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

AARON I. MACK,	:	
Petitioner	:	
v.	:	Case No. 3:22-cv-184-KAP
ERIC TICE, WARDEN,	:	
S.C.I. SOMERSET,	:	
Respondent	:	

Memorandum Order

Petitioner's motion for a stay, ECF no. 7, is denied without prejudice. In October 2022, petitioner filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his custody pursuant to a 2017 sentence in the Court of Common Pleas of Cambria County. Under Rhines v. Weber, 544 U.S. 269, 276-78 (2005), a stay is appropriate when the petitioner has good cause for failure to exhaust claims, the unexhausted claims are potentially meritorious, and there is no evidence that the petitioner seeks to use the stay as a delaying tactic. Typically petitioners seek a stay while their petition under Pennsylvania's Post Conviction Relief Act (PCRA), 42 Pa.C.S. §§ 9541-46, is pending in the state courts.

Petitioner's PCRA petition was dismissed by the trial court in December 2020, and the Superior Court affirmed that dismissal in October 2021. The appellate docket sheet is attached as an exhibit. No further proceedings appear to be pending, and petitioner does not allege that there are any further proceedings pending. If that is so, it is likely that the limitations period to assert further claims has expired. Unless petitioner demonstrates that staying this matter would lead to the exhaustion of a concrete and potentially meritorious claim, there is no reason for a stay. The Marshal has already been ordered to make service of the petition on the respondent, the Pennsylvania Attorney General, and the District Attorney for Cambria County.



DATE: April 19, 2023

Keith A. Pesto,
United States Magistrate Judge

Notice by U.S. Mail to:

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